

THE RESTITUTION REVIEW

The State Board of Control's Quarterly Newsletter on Restitution

“1998 Governor's Awards”

It's that time of year again!


Please join the Governor, the State Board of Control (SBOC), the Youth and Adult Correctional Agency, the California Department of Corrections and the California Youth Authority in recognizing those individuals or groups of individuals that stand out above the rest with outstanding efforts in regards to victims' assistance. To recognize individuals for their extraordinary accomplishments relating to crime victims, Governor Pete Wilson has established two significant awards, the Governor's Doris G. Tate Awards and the Restitution Awards. Both awards were created to formally acknowledge and award those who go beyond their normal call of duty to assist victims of crime. Now is the time to nominate an individual or group of individuals who you feel should be commended for their exceptional achievements.

Restitution Awards

As the SBOC continues its restitution outreach program in the criminal justice community, it is apparent that many individuals offer invaluable contributions to victims of crime, specifically in the areas of restitution. Recognizing the need to formally commend these individuals for their outstanding efforts, last year, Governor Wilson established and awarded the first Annual Governor's Restitution Awards. The purpose of these awards is to acknowledge those individuals who have assisted in the areas of assessment and collection of restitution while enhancing services to crime victims. If you are interested in nominating an individual or group within local government for the Restitution Award and would like to receive an award nomination packet, please contact Gina Miller with the State Board of Control, Revenue Recovery and Compliance Division, at (916) 322-2484.

Doris G. Tate Awards

In 1992, Governor Wilson established the Doris G. Tate Awards in memory of the late Doris G. Tate, who was an advocate in the area of victims' rights. The purpose of these awards is to recognize individuals and programs for their outstanding services to crime victims, outstanding leadership in advancing victims' rights, and outstanding contributions to youth and adult correctional agencies. If you are interested in nominating an individual or group for this award and would like to receive an award nomination packet, please contact Sandi Menefee with California's Department of Corrections, Victims' Service Unit, at (916) 358-2436 or Sharon English with California Youth Authority, Victims' Service Unit, at (916) 262-1392.

The State Board of Control and the Youth and Adult Correctional Agency are honored to work together in coordinating the activities for the selection and presentation of the Doris G. Tate and Restitution Awards. Both Awards will be presented at a special ceremony hosted by the Governor. 

Hurry and submit your nomination form, as time is running out! All nomination forms MUST be submitted on or before July 31, 1998. Request one or both of the official nomination packets for more detailed information.

Is it....
?Penal Code §1202.4?

Is it....
?Penal Code §1202.45?

Imposition of Restitution Fines

It has been brought to the State Board of Control's (SBOC) attention that there is some confusion regarding the requirements of assessing restitution fines pursuant to Penal Code §1202.4 and/or §1202.45. To clarify, Penal Code §1202.4(b) requires that a restitution fine must be imposed upon every felony and misdemeanor conviction. Whereas, Penal Code §1202.45 is an "additional" restitution fine which shall be imposed on all convictions where a period of parole is included as part of the offender's sentence. This "additional" restitution fine shall be assessed in the same amount as the initial fine pursuant to Penal Code §1202.4(b) and shall be suspended unless the offender's parole is revoked.

The SBOC has learned that courts are omitting the imposition of the "initial" restitution fine under Penal Code §1202.4 and are only imposing the "second" parole fine pursuant to Penal Code §1202.45. This improper assessment is problematic in that by omitting the imposition of the initial restitution fine and imposing only the parole restitution fine pursuant to Penal Code §1202.45 (which becomes effective only upon the revocation of an offender's parole), the legislative intent behind the statute is contradicted. Additionally, without the correct application of Penal Code §§1202.4(b) and 1202.45, these sentences may be challenged as invalid.

As you are aware, restitution fines are an essential revenue source for the Restitution Fund to ensure that sufficient resources are available to assist victims of crime through the Victims of Crime Program. So please remember that in all felony and misdemeanor convictions, the

initial restitution fine pursuant to Penal Code §1202.4 must be imposed, and if applicable, the additional parole restitution fine pursuant to Penal Code §1202.45 shall also be imposed. If you have any questions or would like further clarification regarding this issue, please contact Maureen Dumas, Restitution Manager, at (916) 327-0345. 🌿

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Just A Friendly Reminder!



To clarify, since the implementation of substantial restitution law in 1994, the mandatory restitution fine for felony and misdemeanor offenses can no longer be stayed. On occasion, the SBOC still learns of situations where the Courts are staying the fine in accordance with the old statutes. Please note, although the fine cannot be stayed, it may be waived but only if there are compelling and extraordinary reasons for not doing so and those reasons are stated on the record. 🌿

What do victims and rights have in common?

“Karyn Sinunu”

As referenced in past and current issues of the *Restitution Review*, the California District Attorneys Association (CDAA) in collaboration with the State Board of Control (SBOC) has developed and will soon issue its 1998 Institute for the Advancement of Criminal Justice Planning, California District Attorneys Association *Victims' Rights Manual*. The driving force behind the creation of the *Victims' Rights Manual* is Karyn Sinunu, Assistant District Attorney in Santa Clara County. Ms. Sinunu initially developed a victims' rights handbook which she issued during her victims' rights lectures as a research tool to assist California prosecutors and victim advocates with citing victims' rights more easily. The CDAA discovered Ms. Sinunu's creation and thought it would be a valuable tool for all prosecutors and Victim Witness staff to ensure that victims' rights are respected throughout the criminal justice process. Through collaborative efforts between CDAA and the SBOC, Ms. Sinunu's handbook was adopted and updated to include among other victims' issues, a section on current restitution information.

This dedication to victims' rights has always been evident in Ms. Sinunu's career. Ms. Sinunu graduated with honors from Mills College in 1969. She raised a family and once her children were old enough to attend school, Ms. Sinunu began law school and graduated first in her class from Peninsula University Law School in 1985. While attending law school, she joined the Santa Clara County District Attorney's Office in 1983 as a law clerk.

After obtaining her law degree, Ms. Sinunu became a Deputy District Attorney in 1986 and focused primarily on children's rights and child abuse cases. Ms. Sinunu has a real knack when it comes to working with children. She personally feels that they are great witnesses when approached and worked with in the right manner. Ms. Sinunu has also worked in various units within the District Attorney's Office including Elderly Abuse, Domestic Violence, and Welfare Fraud.

In addition to currently supervising a staff of 45, Ms. Sinunu conducts training for the entire Santa Clara District Attorney's Office on subjects such as victims' rights and burn evidence. She has been a guest speaker for many lectures encompassing subject matters such as: Direct Examination of Witnesses, Hate Crimes, Ending Family Violence and of course, Victims' Rights.

Ms. Sinunu is not only a reputable speaker, but also an outstanding prosecutor. She has been actively involved in the prosecution of many publicized and cited cases. Although it appears that Ms. Sinunu has a full plate, she always seems to have room for just a little more. Ms. Sinunu functions as the District Attorney's

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Media Coordinator, and in her spare time is an active member of the California Bar Association, Santa Clara Bar Association, California District Attorney's Association and the CDAA Victims' Rights Subcommittee which is chaired by Sacramento's District Attorney, Jan Scully. Ms. Sinunu stated that this year the primary focus of the Victims' Rights Subcommittee is going to be outreach to all the District Attorney Offices statewide to make sure they are all informed about victims' rights, including their right to restitution.

In regards to restitution, Ms. Sinunu feels that when there is a case which involves a victim and losses, that restitution should absolutely be part of the prosecution. Ms. Sinunu stands strong on the issue of assessing and collecting restitution for victims. In fact, she was quoted as stating, "The prosecution isn't complete until not only a restitution order is imposed, but that it is also attained."

Please join the SBOC in recognizing Ms. Sinunu and all of her efforts to ensure that the rights of victims in the criminal justice process are upheld. We applaud her for her invaluable contributions and the dedication she has demonstrated in making sure that all parties involved with the prosecution of an offender remembers that victims have rights too! 🌱



California District Attorney's Association Victims' Rights Manual



As previously mentioned in the January 1998 edition of the *Restitution Review*, the Institute for the Advancement of Criminal Justice in cooperation with the California District Attorney's Association and the State Board of Control (SBOC) will be issuing its *Victims' Rights Manual* to all District Attorneys, Prosecuting Staff, as well as Victim Witness Centers. It is anticipated that this manual will be distributed statewide in the month of July 1998.

The SBOC would like to remind the criminal justice community that along with the issuance of this manual, the SBOC is offering restitution training and is willing to come to your county to conduct this training. If you have any questions or would like to request a restitution workshop, please contact Maureen Dumas, Restitution Manager, at (916) 327-0345. 🌱



The Restitution Review is a publication of the
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AN IMPORTANT DECISION REGARDING THE IMPOSITION OF RESTITUTION ORDERS IN *People v. Sullivan*

Please note that on May 13, 1998, this case was granted a review by the California Supreme Court and is therefore not currently citable. The State Board of Control felt that the topics discussed were still pertinent and wanted to advise the criminal justice community of such issues.

An important case regarding the issue of imposing restitution when a victim is covered by insurance was recently addressed in *People v. Sullivan* (1998) 61 Cal.App.4th 337, 71 Cal.Rptr.2d 440. In this case the Appellate Court ruled that the trial courts may impose Restitution Orders for a victim's medical expenses even though the victim is covered under medical insurance.

Background

On November 3, 1995, during an argument between Defendant Sullivan and Timothy Lindsey ("Lindsey"), the defendant shot and killed Lindsey and wounded Mark Keller ("Keller").

On June 4, 1996, Defendant Sullivan plead guilty to one count of second-degree murder and one count of assault with a deadly weapon. During a subsequent contested restitution hearing, the Court ordered the defendant to pay restitution to two victims for medical expenses incurred. Defendant Sullivan appealed the order to pay restitution on the grounds that the losses incurred by one victim were paid by medical insurance and the losses of the other victim were non-economic losses.

Appeal Issues

The appeal was heard before the California Court of Appeals, Fourth District. The Appellate Court reviewed the case based on the following two issues:

1) Whether the Trial Court properly ordered restitution to a victim for insured medical expenses?


Defendant Sullivan contended that the Trial

Court erred in ordering restitution to be paid to a victim for medical expenses that were covered by insurance. Defendant argued that since the medical expenses were paid by the victim's medical insurance, the victim did not suffer any "economic losses."

The Court found that under the express language of Penal Code Section 1202.4, restitution shall be ordered in every case "where a crime victim suffers a loss" and that the purpose of section 1202.4 was to make criminals financially responsible for the crimes they commit and to the victims of these crimes. The Court interpreted section 1202.4 as having the similar effects of the "collateral source" rule found under the Tort Law. The "collateral source" rule implies that "an action against the wrongdoer for the damages suffered is not precluded nor is the amount of damages reduced by the receipt by him of payment for his loss from a source wholly independent of the wrongdoer." *Anheuser-Busch, Inc. v. Starley* (1946) 28 Cal.2d 347, 349. Thus, the Court reasoned that the defendant "should not be allowed to avoid bearing the financial consequences of his criminal conduct merely because Keller had insurance."

2) Whether the Trial Court properly ordered restitution to a victim for psychiatric medical expenses?

Defendant Sullivan contended that the psychiatric medical expenses incurred by victim Lindsey's mother were non-economic losses and, therefore, "not authorized by section 1202.4 until January 1, 1997."

The Court found that the out-of-pocket psychiatric medical expenses were indeed authorized under section 1202.4 as they were deemed economic losses "for which the trial court could order restitution." 

*article contributed by Theresa Kimura-Yip, Restitution Analyst



**CALIFORNIA DEPARTMENT OF CORRECTIONS
RESTITUTION REVENUE
JANUARY, FEBRUARY, MARCH 1998**



INSTITUTION	Jan-98			Feb-98			Mar-98		
	RESTITUTION	RESTITUTION	TOTAL	RESTITUTION	RESTITUTION	TOTAL	RESTITUTION	RESTITUTION	TOTAL
	FROM PAYROLL	FROM DEPOSITS		FROM PAYROLL	FROM DEPOSITS		FROM PAYROLL	FROM DEPOSITS	
MULE CREEK STATE PRISON	\$5,237.70	\$8,283.23	\$13,520.93	\$5,283.46	\$7,365.02	\$12,648.48	\$6,586.25	\$8,385.64	\$14,971.89
AVENAL STATE PRISON	\$10,357.19	\$14,621.13	\$24,978.32	\$6,505.06	\$10,642.30	\$17,147.36	\$6,397.16	\$16,859.03	\$23,256.19
CALIPATRIA STATE PRISON	\$3,722.41	\$10,170.99	\$13,893.40	\$4,505.25	\$9,772.77	\$14,278.02	\$4,047.79	\$11,565.15	\$15,612.94
CA. CORRECTIONAL CENTER	\$11,721.81	\$12,626.28	\$24,348.09	\$12,110.39	\$11,380.33	\$23,490.72	\$41,062.26	\$14,072.33	\$55,134.59
CA. CORRECTIONAL INSTITUTE	\$5,180.00	\$10,802.02	\$15,982.02	\$7,309.53	\$9,102.57	\$16,412.10	\$5,871.50	\$14,391.40	\$20,262.90
CENTRAL CA. WOMEN'S FACILITY	\$3,659.75	\$12,576.89	\$16,236.64	\$3,564.30	\$10,034.40	\$13,598.70	\$3,987.92	\$14,161.71	\$18,149.63
CENTINELA STATE PRISON	\$2,160.67	\$13,757.20	\$15,917.87	\$2,014.20	\$12,895.10	\$14,909.30	\$2,133.02	\$17,859.63	\$19,992.65
CA. INSTITUTION FOR MEN	\$5,084.55	\$8,705.08	\$13,789.63	\$5,407.40	\$5,396.29	\$10,803.69	\$4,926.82	\$7,467.42	\$12,394.24
CA. INSTITUTION FOR WOMEN	\$1,669.80	\$4,239.39	\$5,909.19	\$1,789.20	\$4,581.61	\$6,370.81	\$1,674.31	\$4,325.57	\$5,999.88
CA. MEN'S COLONY	\$12,107.87	\$15,293.42	\$27,401.29	\$9,859.36	\$13,073.39	\$22,932.75	\$12,165.35	\$15,838.08	\$28,003.43
CA. MEDICAL FACILITY	\$2,935.35	\$6,597.10	\$9,532.45	\$2,956.97	\$4,307.67	\$7,264.64	\$2,383.64	\$7,576.36	\$9,960.00
CA. STATE PRISON SOLANO	\$4,790.81	\$11,972.30	\$16,763.11	\$3,873.93	\$10,438.43	\$14,312.36	\$4,843.30	\$13,676.53	\$18,519.83
CORCORAN STATE PRISON	\$5,057.72	\$11,602.43	\$16,660.15	\$5,163.49	\$11,326.32	\$16,489.81	\$4,924.61	\$13,940.94	\$18,865.55
CA. REHABILITATION CENTER	\$2,873.35	\$9,281.11	\$12,154.46	\$2,195.97	\$8,021.92	\$10,217.89	\$2,754.47	\$13,775.62	\$16,530.09
CORRECTIONAL TRAINING FACILITY	\$9,425.69	\$12,029.37	\$21,455.06	\$8,913.48	\$9,963.99	\$18,877.47	\$8,583.43	\$16,164.42	\$24,747.85
CHUCKAWALLA VALLEY STATE PRISON	\$2,189.07	\$9,112.01	\$11,301.08	\$1,624.50	\$9,545.41	\$11,169.91	\$2,057.48	\$10,354.97	\$12,412.45
DONOVAN CORR. FACILITY ROCK MTN.	\$6,445.82	\$7,469.50	\$13,915.32	\$6,197.76	\$7,444.43	\$13,642.19	\$6,678.00	\$8,497.57	\$15,175.57
DEUEL VOCATIONAL INSTITUTE	\$3,399.35	\$4,839.12	\$8,238.47	\$3,345.35	\$3,435.13	\$6,780.48	\$3,672.00	\$5,996.58	\$9,668.58
FOLSOM STATE PRISON	\$5,377.29	\$6,345.87	\$11,723.16	\$4,564.15	\$6,557.40	\$11,121.55	\$9,508.81	\$6,895.81	\$16,404.62
CA. STATE PRISON, SACRAMENTO	\$3,347.59	\$5,509.49	\$8,857.08	\$3,229.87	\$5,772.66	\$9,002.53	\$2,902.80	\$6,687.83	\$9,590.63
HIGH DESERT STATE PRISON	\$2,136.71	\$12,957.53	\$15,094.24	\$1,466.18	\$8,793.77	\$10,259.95	\$1,218.25	\$15,543.62	\$16,761.87
IRONWOOD STATE PRISON	\$3,966.52	\$11,403.25	\$15,369.77	\$6,058.02	\$11,423.98	\$17,482.00	\$3,819.23	\$16,121.83	\$19,941.06
CA. STATE PRISON L.A. COUNTY	\$2,548.64	\$13,318.14	\$15,866.78	\$2,372.26	\$8,793.71	\$11,165.97	\$2,241.02	\$10,664.20	\$12,905.22
NO. CA. WOMEN'S FACILITY	\$1,160.03	\$2,181.51	\$3,341.54	\$519.36	\$1,616.53	\$2,135.89	\$631.43	\$2,533.47	\$3,164.90
NORTH KERN STATE PRISON	\$1,775.89	\$3,019.79	\$4,795.68	\$2,103.56	\$4,810.18	\$6,913.74	\$1,727.58	\$5,003.92	\$6,731.50
PELICAN BAY STATE PRISON	\$2,776.90	\$9,607.50	\$12,384.40	\$3,157.76	\$6,962.36	\$10,120.12	\$2,639.06	\$8,582.06	\$11,221.12
PLEASANT VALLEY STATE PRISON	\$3,238.48	\$15,411.52	\$18,650.00	\$2,550.41	\$9,823.99	\$12,374.40	\$3,191.23	\$13,724.54	\$16,915.77
SUBSTANCE ABUSE TREATMENT FACILITY	\$1,147.31	\$7,180.03	\$8,327.34	\$2,630.22	\$8,337.61	\$10,967.83	\$1,715.07	\$10,382.54	\$12,097.61
SIERRA CONSERVATION CENTER	\$13,590.14	\$14,726.09	\$28,316.23	\$13,816.86	\$12,065.97	\$25,882.83	\$39,494.46	\$21,044.01	\$60,538.47
SAN QUENTIN STATE PRISON	\$3,312.77	\$2,866.13	\$6,178.90	\$2,928.10	\$3,074.38	\$6,002.48	\$2,730.40	\$4,191.32	\$6,921.72
SALINAS VALLEY STATE PRISON	\$1,847.24	\$10,909.88	\$12,757.12	\$1,603.01	\$11,183.89	\$12,786.90	\$1,561.83	\$15,451.41	\$17,013.24
VALLEY STATE PRISON FOR WOMEN	\$2,558.55	\$12,916.30	\$15,474.85	\$2,502.02	\$11,532.62	\$14,034.64	\$2,361.44	\$14,147.08	\$16,508.52
WASCO STATE PRISON	\$1,879.28	\$3,588.36	\$5,467.64	\$2,301.20	\$2,929.50	\$5,230.70	\$1,965.27	\$5,236.71	\$7,201.98
TOTAL	\$148,682.25	\$315,919.96	\$464,602.21	\$144,422.58	\$272,405.63	\$416,828.21	\$202,457.19	\$371,119.30	\$573,576.49

County Restitution Resource

As a result of the Criminal Restitution Contracts with various District Attorney and Probation Offices in the State, the following counties have restitution resources within their own offices! These resources are called Restitution Specialists and are county employees whose positions are funded through contracts with the State Board of Control. Restitution Specialist are located in either the county's District/City Attorney's Office or within the Probation Department and are available to be utilized for restitution questions that may arise in your office. If you are interested in finding out who your local restitution connection is for the following counties, contact the appropriate Restitution Specialist listed below:

County/Office	Restitution Specialist	Phone Number
Alameda (District Attorney's Office)	Cindy Hall	(510) 272-6188
Fresno (District Attorney's Office)	Sandy Mostert	(209) 262-4149
Lake (District Attorney's Office)	Jacque Begun	(707) 262-4282
Monterey (District Attorney's Office)	Misty Compton	(408) 755-5887
Napa (District Attorney's Office)	Amy Stout	(707) 253-4427
Napa (Probation Department)	Amy Stout	(707) 253-4132
Orange (District Attorney's Office)	Georgina Quintana	(714) 834-5547
Sacramento (District Attorney's Office)	Luvet Anglin	(916) 874-5926
Sacramento (Probation Department)	Jim Moroney	(916) 874-1575
San Bernardino (District Attorney's Office)	Jane Allen	(909) 387-6542
San Bernardino (Probation Department)	Christine Owens	(909) 387-6173
San Diego (District Attorney's Office)	Jacque Young	(619) 531-4130
	Norma Owens	(619) 515-8465
San Diego (City Attorney's Office)	Emma Landeros	(619) 533-5603
San Diego (Probation Department)	Jeff Macaraeg	(619) 515-8223
San Mateo (District Attorney's Office)	Angela Sterling	(650) 363-4636
Santa Clara (District Attorney's Office)	Steve Dippert	(408) 792-2548
Solano (District Attorney's Office)	Kathy Azevedo	(707) 421-6994
Sonoma (District Attorney's Office)	Laura Pray	(707) 527-3795
Stanislaus (Probation Department)	Doug Wann	(209) 558-8106

RESTITUTION REVENUE



From
Restitution Fines, Orders and Diversion Fees
For
February, March and April 1998



	February '98	March '98	April '98
Restitution Fines	\$2,880,725	\$3,236,318	\$3,652,068
Restitution Orders	\$76,525	\$22,070	\$69,401
Diversion Fees	\$50,745	\$61,481	\$79,321
